APPENDIX-1

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 02-40364

(Summary Calendar)

U.S. COURT OF APPEALS
FILED
OCT 16 2002
CHARLES R. FULBRUGE III
CLERK

LAWERNCE D. KENEMORE, JR.,

Petitioner-Appellant,

versus

N.L. CONNER, WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
For the Eastern District of Texas
USDC No. 5:01-CV-89

Before DAVIS, WIENER, and EMILIO M. GARZA,
Circuit Judges.

PER CURIAM.*

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* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Lawernce D. Kenemore, federal prisoner # 26175-077, appeals from the district court's dismissal of his 28 U.S.C. § 2241 petition. Kenemore also moves us to permit him to supplement his brief to bring to our attention two recent Supreme Court cases, *Ring v. Arizona*, 122 S. Ct. 2428 (2002) and *Harris v. United States*, 122 S. Ct. 2406 (2002).

In his appeal, Kenemore argues that a defect in his indictment deprived the district court of jurisdiction. Relying on two Supreme Court cases, *Neder v. United States*, 527 U.S. 1 (1999) and *United States v. Cabrales*, 524 U.S. 1(1998), Kenemore also argues that he was convicted of a nonexistent offense. Kenemore also argues that the district court erred in not reviewing his argument in light of the legal doctrine articulated in *Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

Kenemore argues that he should be allowed to proceed by way of the savings clause of 28 U.S.C. §

2255. To bring his § 2241 petition via the § 2255 savings clause, Kenemore must show that § 2255 provides him with an inadequate or ineffective remedy. *Pack v. Yusuff* 218 F.3d 448, 452 (5th Cir. 2000). To make this showing, Kenemore must demonstrate that his claims are based on a retroactively applicable Supreme Court decision which establishes that he may have been convicted under a non-existent offense, and that his claims were foreclosed by circuit law at the time when they should have been raised in his trial, appeal, or first § 2255 motion. *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001).

First, Kenemore ' s argument that a defect in his indictment deprived the district court of jurisdiction has no merit. *See United States v. Cotton*, 122 S. Ct. 1781, 1785 (2002)(holding that defects in an indictment do not deprive a court of its power to adjudicate a case).

Second, Kenemore cannot rely on *Neder or Ca brales* to show that 28 U.S.C. § 2255 provided him with an inadequate remedy, because the Supreme Court decided these two cases before the district court denied Kenemore's § 2255 motion. Kenemore had the option of

raising these claims on his first § 2255 motion, but failed to do so.

Third, Kenemore has not demonstrated that his *Accardi* claims are based on a retroactively applicable Supreme Court decision establishing that he may have been convicted of a nonexistent offense, or that his *Accardi* claims were previously foreclosed by circuit law.

Kenemore's motion to supplement his brief on appeal to bring to the court's attention new Supreme Court cases is GRANTED. The district court's judgment dismissing Kenemore § 2241 petition is AFFIRMED.

APPENDIX-2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

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BY MV

EOD JAN - 2 2002

LAWERNCE D. KENEMORE	§	
#26175-077	§	
	§	
VS.	§	**CIVIL ACTION NO.**
	§	**5:01CV89**
	§	
N.L. CONNER	§	

REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Petitioner Lawrence Kenemore, Jr., an inmate confined at the Federal Correctional Institution ("FCI") Texarkana, Texas, proceeding *pro se* and *in forma pauperis*, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition was referred for findings of fact, conclusions of law and recommendations for the disposition of the case.

Background

On May 6, 1996, following a six week trial,

Petitioner was found guilty of ten counts of mail fraud and conspiracy to commit mail fraud and four counts of money laundering in the United States District Court for the Northern District of Texas, Dallas Division. Petitioner appealed the convictions and they were affirmed on August 27, 1998, by the United States Court of Appeals for the Fifth Circuit. Thereafter, Petitioner filed a motion to vacate, set aside, or correct sentence pursuant to 28 U S.C. § 2255. The motion was denied on November 17. 1999, and Petitioner did not appeal the decision. Subsequently, Petitioner filed a motion for leave to file a petition for writ of *coram nobis*. The petition was denied on February 26, 1993.

On September 7, 1999, Petitioner filed a petition for writ of habeas corpus pursuant to 23 U.S.C. § 2241, wherein he attacked his underlying conviction alleging actual innocence, error by the trial court in failing to give proper jury instructions, and error by the trial court in failing to dismiss the indictment for proper venue. On August 8, 2000, Petitioner's petition was denied On April 2, 2001, Petitioner filed the instant cause of action pursuant to 28 U.S.C. § 2241, alleging

his indictment was defective because it failed to charge specific elements; the underlying court did not have jurisdiction; and there was error in the grand jury process.

On July26 2001 Respondent filed his response to the petition for writ of habeas corpus and his motion to dismiss (Dkt. No. 15). In his motion, Respondent contends that because Petitioner alleges his indictment was defective, he should have filed a motion to vacate, set aside, or correct sentence pursuant to § 2255, instead of a petition for writ of habeas corpus pursuant to § 2241. Moreover, Respondent argues Petitioner's petition does not fall within the "savings clause" of § 2255. Based on these contentions, Respondent asks the Court to dismiss the Petitioner's petition for writ of habeas corpus.

Discussion

Petitioner is challenging his conviction pursuant to § 2241 as opposed to § 2255. The disposition of the petition is governed by the Fifth Circuit's opinion in *Pack v. Yusuff*, 218 F.3d 448 (5th Cir. 2000) The Fifth Circuit noted that a § 2241 proceeding attacks the

manner in which a sentence is carried out. *Id.* at 451 A § 2255 motion is the method to mount a collateral attack on a federal conviction. *Id.* "A petition for a writ of habeas corpus pursuant to 2241 is not a substitute for a motion under 2255" *Id* at 452 (citations omitted) A § 2241 petition that seeks to challenge the validity of a federal sentence must either be dismissed or construed as a § 2255 motion. Id.

The Court in Pock noted that § 2255 contains a "savings clause" that will permit a § 2241 petition to act as a § 2255 motion in rare cases where the petitioner shows that the remedy under § 2255 is inadequate or ineffective. *Id.* The Court held that a § 2241 petition may not be used as a substitute for a § 2255 motion just because the § 2255 motion would be time barred. *Id.* at 452-53. The Fifth Circuit also noted that other circuits have held a defendant may invoke the "savings clause" exception "only when the Constitution demands it, or where otherwise Congress would violate the Suspension Clause by imposing a conviction or sentence without allowing for section 2241 relief." Id. at

453 (*citing In re Davenport*, 147 F.3d 605, 609 (7th Cir. 1998)). The Fifth Circuit chose not to decide the precise scope of the "savings clause," but held that the petitioner in that case did not establish the inadequacy or ineffectiveness of the § 2255 remedy. *Id.*

Moreover, the *Davenport* court concluded that "a federal prisoner should be permitted to seek habeas only if he had no reasonable opportunity to obtain earlier judicial correction of a fundamental defect in his conviction or sentence because the law changed after his first 2255 motion " 147 F.3d. at 611. The Court went on to specify the following qualifications' First, the change in the law has to be made retroactive by the Supreme Court; second, the change in the law must be one that eludes the permission in § 2255 for successive motions and, third, the "change in law" is not to be equated to a difference between the law in the circuit in which the prisoner was sentenced and the circuit in which he is incarcerated. *Id.* at 611-12.

In the instant case, Petitioner fails to meet his burden as set forth above He is attempting to impermissibly use a § 2241 petition as a substitute for a

§ 2255 motion. Petitioner has not shown that a § 2255 motion would have been inadequate or ineffective He has not cited to a change in any applicable law which has been made retroactive by the Supreme Court nor has he successfully demonstrated that he was prevented from asserting the claims herein at an earlier opportunity. Petitioner has not satisfied the Davenport requirements, and he may not avail himself of § 2241 relief in this case.

Recommendation

It is accordingly recommended that Respondent's Motion to Dismiss (Dkt. No. 15) be GRANTED, and Petitioner's petition for writ of habeas corpus be DISMISSED WITH PREJUDICE.

Objections

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations contained in the report. A party's failure to file written objections to the findings, conclusions and recommendations contained in this report within ten days after being served with a copy shall bar that party

from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court *Douglass v United States Auto Ass'n.*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

Signed this 28th day of December 2001.

"S/ Caroline M Craven"

CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE

APPENDIX-3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

02 JAN 28 AM 10:53

LAWERNCE D. KENEMORE	§	
#26175-077	§	
	§	
VS.	§	**CIVIL ACTION NO.**
	§	**5:01cv89**
N.L. CONNER	§	

EOD JAN 28 2002

FINAL JUDGMENT

the Court having considered the Petition for Writ of Habeas Corpus and rendered its decision by opinion issued this same date, it is hereby **ORDERED** that the petition is **DISMISSED WITH PREJUDICE.**

SIGNED this 25TH day of January, 2002.

"S/ David Folsum"

DAVID FOLSUM
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

01 JAN 28 AM 9:53

LAWERNCE D. KENEMORE	§	
#26175-077	§	
	§	
VS. EOD JAN 28 2002	§	**CIVIL ACTION NO.**
	§	**5:01CV89**
N.L. CONNER	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Caroline M. Craven who issued a Report and Recommendation recommending Petitioner's Petition for Writ of Habeas Corpus be dismissed with prejudice. The Report of the Magistrate Judge which contains her proposed findings of fact and recommendations for the disposition of such action has been presented for consideration. Petitioner filed objections to the Magistrate Judge's Report and Recommendation. The Court conducted a de novo review of the Magistrate Judge's findings and conclusions. Petitioner's objections are without merit. The findings and

conclusions the Magistrate Judge are correct, and the undersigned hereby adopts the same as the findings and conclusions of this Court Accordingly, it is

ORDERED that the Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE.** All motions by either part not previously ruled on are hereby **DENIED** It is finally **ORDERED** that the order referring the case to Magistrate Judge Caroline Craven is

VACATED.

SIGNED this 25th day of January, 2002.

"S/ _____"

DAVID FULSOM

UNITED STATES DISTRICT JUDGE

APPENDIX - 4

Lawernce D. Kenemore Jr.
26175-077 #G
P.O. Box 7000
Texarkana, Teaxas 75505-7000

02 FEB 25 PM 2:23
BY MV

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

Lawernce D. Kenemore Jr.	)	
Plaintiff	)	
V.	)	
	)	**No. 01-cv-089**
N.L. Conner (Warden)	)	
Defendant	)	
	)	

NOTICE OF APPEAL

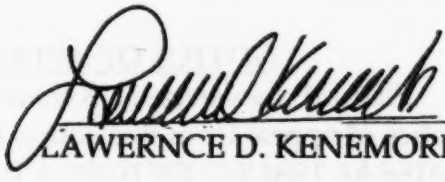
Plaintiff, Lawernce D. Kenemore Jr, hereby files his notice of appeal from this courts **ORDER OF DISMISSAL ISSUED BY JUDGE DAVID FOLSOM ON** January 25, 2002 and filed in this Court on January 28, 2002, dismissed with prejudice this Plaintiffs 28 U.S.C. 2241 which adopted the findings of the Magistrate, to the Fifth Circuit Court of Appeals.

LAWERNCE D. KENEMORE Jr.

CERTIFICATE OF SERVICE

I LAWERNCE D. KENEMORE JR. CERTIFIES THAT ON THE 11th DAY OF February 2002 PLACED IN THE MAIL 1'ST CLASS POSTAGE PREPAID A COPY OF THE ATTACHED NOTICE OF APPEAL TO:

AUSA
Thomas Kopf
110 N. College #700
Tyler Texas 75702



LAWERNCE D. KENEMORE Jr.

§ 1341. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such mater or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

APPENDIX - 6

AMENDMENT XIV – CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPORTIONMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

Materials for the Citizenship and Privileges and Immunities Clauses of Section 1 are set out in this volume. See the following three volumes for materials pertaining to the Due Process and Equal Protection Clauses of that section and Sections 2 to 5.

Section 1. All persons born or naturalized in the United States. and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial

officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State. being twenty-one years of age. and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebel-

APPENDIX-7

AMENDMENT VI – JURY TRIAL FOR CRIMES, AND PROCEDURAL RIGHTS

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his Favor, and to have the Assistance of Counsel for his defence.

APPENDIX - 8

AMENDMENT V – GRAND JURY INDICTMENT FOR CAPITAL CRIMES; DOUBLE JEOPARDY; SELF-INCRIMINATION; DUE PROCESS OF LAW; JUST COMPENSATION FOR PROPERTY

No person shall be held to answer for a capital, or otherwise infamous crime, in less on a presentment or indictment of a Grand Jury except in cases arising in the land or naval or in the Militia, when in actual service in time of War or public danger nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law nor shall private property be taken for public use, without just compensation.

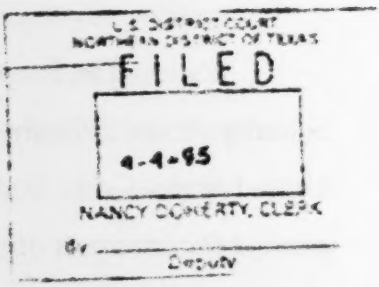
APPENDIX-9

IN THE UNITED STATE DISTRICT COURT

FOR THE NORTHERN DISTRICT COURT

DALLAS DIVISION

UNITED STATES OF AMERICA



V.

CRIMINAL NO. 3:95-CR-099

LAWERNCE DERWOOD KENEMORE, JR. (1) *
aka Lawrence D. Kenemore, Jr. *
aka Larry Kenemore *
SHERLYN DENICE KENEMORE (2) *
aka Sherry Kenemore *
JOSEPH BRYAN KENEMORE (3) *
MICHAEL J. MCKEOWN (4) *
CHRIS WAYNE KELLUM (5) *
CRYSTAL KELLUM (6) *
VERNON L. BYRD (7) *
aka Tack Byrd *
CHARLES E. POSTLE (8) *
aka Pat Postle *

The Grand Jury charges:

INTRODUCTION

At times material to this Indictment:

A. THE ERISA ACT OF 1974

1. The Employee Retirement Income Security Act of 1974 (hereinafter ERISA), Title 29, United States Code, Section 1001 et seg., was enacted to protect the interests of participants in private sector employee benefit plans.

2. Through the enactment of ERISA it became national policy to protect interstate commerce and the interests of participants in employee welfare benefit plans and their beneficiaries by establishing standards of conduct, responsibility, and obligation for fiduciaries of employee welfare benefit plans.

3. An employee welfare benefit plan is a

plan, fund or program, established or maintained by an employer or association of employers for the purpose of providing medical, surgical, hospital, sickness, accident, disability and death benefits for employees, their beneficiaries and other plan participants.

4. A fiduciary of an employee welfare benefit plan is anyone who exercises discretionary authority or control in the management of such a plan or disposition of its funds or assets. A fiduciary is required to discharge his duties with respect to the plan with care, skill, prudence, and diligence and to act solely in the interest cf the employees, participants and beneficiaries covered by the plan, and for the exclusive purpose of providing benefits to them and for defraying reasonable expenses of administering the plan. A fiduciary is barred by ERISA from dealing with the funds or assets of the plan in his own interest or for his own account

B. THE DEFENDANTS

1. Defendant LAWERNCE DERWOOD KENEMORE, JR., also known as Lawrence D. Kenemore, Jr., also known as Larry Kenemore, managed and controlled ATG ASSOCIATION OF TRUST AND GUARANTEE of which he sometimes represented himself to be a "senior partner" and at other times the "president."

2. Defendant SHERLYN DENICE KENEMORE, also known as Sherry Kenemore, was the wife of defendant LAWERNCE DERWOOD KENEMORE, JR., GUILDS OF AMERICA; he also represented himself to be a "Trustee" of the AFFILIATED GUILDS OF AMERICA trust fund.

C. <u>THE DEFENDANTS' ORGANIZATIONS</u>

1. NATIONAL EMPLOYEES TRADE ASSOCIATION LOCAL 101, NATIONAL EMPLOYEES TRADE ALLIANCE and AFFILIATED GUILDS OF AMERICA were created by the defendants, who

represented them to be labor unions. The defendants represented that these "labor unions" sponsored employee welfare benefit plans in the form of trust funds to pay workers compensation and health claims of their "union members." The defendants issued to employers certificates guaranteeing workers compensation benefits covered by the trust funds, when in fact neither the "trust funds" nor the "unions" possessed sufficient assets to support such a guarantee.

2. ATG ASSOCIATION OF TRUST AND GUARANTEE ("ATG") was created by the defendants and was represented to be an "employer association." The defendants used ATG to market the benefit program promised by the "union" affiliated employee welfare benefit plans.

3. NATIONAL CLAIMS ADMINISTRATION ("NCA"), was created by the defendants and was represented to be a national, professional, third party claims administration company, which was independent of ATG and the "Unions,' and which was to determine which claims were valid and should be paid. The defendants used

NCA to delay, deny and otherwise obstruct the payment of workers compensation and health claims of injured employees.

4. All employer contributions submitted by employers to ATG in order to provide workers compensation and health benefits for

COUNT 1: CONSPIRACY

1. The Grand Jury realleges and incorporates the Introduction of this Indictment as if fully set forth herein.

2. Beginning on about February 1, 1993, and continuing through on or about January 31, 1995, in the Dallas Division of the Northern District of Texas and elsewhere, the defendants LAWERNCE DERWOOD KENEMORE, JR. aka Lawrence D. Kenemore, Jr., aka Larry Kenemore, SHERLYN DENICE KENEMORE, aka Sherry Kenemore. JOSEPH BRYAN KENEMORE, MICHAEL J. MCKEOWN, CHRIS WAYNE KELLUM, CRYSTAL KELLUM,

VERNON L. BYRD, aka Tack Byrd and CHARLES E. POSTLE, aka Pat Postle knowingly, willfully and unlawfully combined, conspired confederated and agreed with each other and with other individuals, known and unknown to the Grand Jury, to commit certain offenses against the United States, to wit:

A. to devise a scheme and artifice to defraud and to obtain money from employers by means of false and fraudulent pretenses, promises, and representations and, in execution thereof, caused the use of the United States mails in violation of Title 18, United Stares Code, Section 1341; and

B. to embezzle, steal, unlawfully and willfully abstract and convert to their own uses, and to the uses of others moneys, funds, premiums, credits and assets of employee welfare benefit plans subject to Title 1 of ERISA and of funds connected therewith in violation of Title 18, United States Code, Section 664.

OBJECT OF THE CONSPIRACY AND SCHEME TO DEFRAUD

3. The object of the conspiracy and scheme to defraud was to set up an employer association and to use entities represented to be labor unions and an unlicensed claims processing center, all created and controlled by the defendants, to induce employers to contribute money to the defendants by falsely representing that such employer contributions would be deposited into union trust funds to provide workers compensation and health coverage for the employees of such employers, and by falsely representing that such union trust funds had sufficient assets to guarantee up to $1,000,000 in workers compensation coverage per employee. In truth and in fact, the union trust funds did not have sufficient assets to cover the promised $1,000,000 guarantee and the vast majority of the employer contributions were not deposited into the union trust funds but were unlawfully diverted by the defendants.

MANNER AND MEANS OF THE CONSPIRACY AND SCHEME TO DEFRAUD

4. It was part of the conspiracy and scheme

and artifice to defraud that:

A. The defendants and their co-conspirators created what they represented to be labor unions, which did not previously exist, and used these "unions" for the purpose of offering programs of benefits which the defendants represented were employee welfare benefit plans under ERISA. The defendants represented to employers that these entities were labor unions despite the fact that the employees were never organized, at no time were the officers of these "unions" ever elected by their union members, at no time did these "unions" represent employees in labor–management disputes, at no time did these "unions" negotiate the terms and conditions of employment with employers on behalf of employees, at no time did these "unions" collect union dues directly from their "union members" or fulfill other typical union activities.

B. The defendants and their co-conspirators created and filed false and fraudulent documents with the United States Department of Labor regarding these "labor unions."

C. The defendants and their co-conspirators created an employer association and used it to market to employers the union employee welfare benefit plans as a low cost alternative to legitimate insurance coverage. The defendants developed and used a marketing sales pitch, which involved the following intentional and deliberate misrepresentations, among others:

(1) that ATG would provide workers compensation coverage to employers at substantial savings over premiums charged by legitimate insurance carriers;

(2) that this was possible because employer contributions would be pooled together and placed into employee welfare benefit plans which would then provide coverage when claims were made; and

(3) that the union employee welfare benefit plans had sufficient assets to provide workers compensation certificates, similar in form to a certificate

of insurance, guaranteeing coverage of up to $1,000,000 per each employee and for each accident;

when in truth:

(1) employer contributions were diverted by the defendants for their own uses and for the uses of others and were not placed in the union employee welfare benefit plans as represented; and

(2) the employee welfare benefit plans and union trust accounts affiliated with ATG did not have assets or stop-loss coverage sufficient to cover the $1,000,000 guarantee expressed on the certificates of benefit.

D. The defendants and their co-conspirators created and controlled a claims administration operation through NCA which the defendants falsely represented to be a third party, independent, national claims organization, independent of ATG and the unions, based in Phoenix, Arizona, with professional adjusters charged with investigating the workers

compensation benefit claims of employees with on-the-job injuries and ordering the payment of benefits for all valid claims. The defendants further represented that the union employee welfare benefit plans were required by federal law to pay all valid claims. In truth, NCA did not have a license to perform third party administration services, was never located in Phoenix, Arizona, was surreptitiously controlled by LAWERNCE DERWOOD KENEMORE, JR. and SHERLYN DENICE KENEMORE, and was not independent from the operations of ATG and the unions which accounted for NCA's only source of business. The defendants used NCA to delay, evade stall , deny and otherwise obstruct the payment of legitimate workers compensation and health claims of injured employees who were covered by the plan and were plan participants.

E. The defendants and their co-conspirators diverted for unauthorized purposes moneys, funds and premiums paid by employers to fund union employee welfare benefit plans. Between April 1, 1993 and August 21, 1994, the defendants received employer contributions of approximately $1,700,000 of which

approximately $300,000 (or less than 13 percent) of such employer contributions were deposited into the appropriate union employee welfare benefit plans. Approximately $1,400,000 (or more than 32 percent) of such employer contributions were used by the defendants and by others for their own purposes.

THE OVERT ACTS OF THE CONSPIRACY

5. In furtherance of the conspiracy, and in order to effect its objects, the defendants committed the following overt acts, among others, in the Northern District of Texas and elsewhere:

(1) On or about March 31, 1993, defendants JOSEPH BRYAN KENEMORE and MICHAEL J. MCKEOWN, caused to be filed with the United States Department of Labor a Labor Organization Information Report: Form LM-1 which reported that a labor union, NATIONAL EMPLOYEES TRADE ASSOCIATION, designation number "Local 101", had been created. JOSEPH BRYAN KENEMORE and MICHAEL J. MCKEOWN purported to have signed this Form LM-l on or about February 1, 1993.

(2) On or about November 3, 1993, defendants LAWERNCE DERWOOD KENEMORE, JR. and SHERLYN DENICE KENEMORE and another individual caused to be filed in the County Clerk office, Orange County, California, a Fictitious Business Name Statement, registering "ATG ASSOCIATION OF TRUST AND GUARANTEE" as a fictitious name under which SHERLYN 0. KENEMORE, LAWERNCE 0. KENEMORE, JR. and another individual were transacting business, and stating that -the registrants had commenced to transact business under the fictitious business name on March 30, 1993.

(2) Beginning at least in or about July, 1993 defendant MICHAEL J. MCKEOWN signed certificates of benefit issued to employers which represented and guaranteed workers compensation coverage by "NETA LOCAL 101" of up to $1,000,000 per each employee and per each accicent.

(4) On or about January 24, 1994, CHRIS WAYNE KELLUM caused to be filed with the United States Department of Labor, a Labor Organization Information Report: Form LM-1 which represented the

NATIONAL EMPLOYEES TRADE ALLIANCE to be a "labor union." The form LM-1 was signed by CHRIS WAYNE KELLUM as secretary-treasurer and also purported to be signed by Tom Walsh as president when in truth and in fact Tom Walsh never signed the form LM-l and was never the President of such alleged "labor organization."

(5) Beginning at least in or about March, 1994, defendant CHRIS WAYNE KELLUM signed certificates of benefit which represented and guaranteed workers compensation coverage by "META" and by "NATIONAL EMPLOYEES TRADE ALLIANCE" of up to $1,000,000 per each employee and per each accident.

(6) On or about February 8, 1994, defendants CHARLES E. POSTLE and VERNON L. BYRD caused to be filed with the United States Department of Labor a Labor Organization Information Report: Form 124-I which represented AFFILIATED GUILDS OF AMERICA to be a "labor union." The form LN-1 was purportedly signed by CHARLES E. POSTLE and VERNON L. BYRD on January 25, 1994.

(7) Beginning at least on or about March, 1994, CHARLES E. POSTLE and VERNON L. BYRD signed certificates of benefit which promised workers compensation coverage by "AFFILIATED GUILDS OF AMERICA" of up to $1,000,000 per each employee and per each accident.

(8) On or about February 10, 1994, defendant SHERLYN DENICE KENEI4ORE signed an agreement with Mail Boxes @ 7th Street & Missouri, located at 5515 North 7th Street, Suite 5, Phoenix, Arizona 85014 in which a postal mail box was rented to receive mail addressed to NCA National Claims Administration.

(9) From in or about February, 1994 and continuing through at least on or about January 31, 1995, LAWERNCE DERWOOD KENEMORE, JR. and STIERLYN DENICE KENEMORE, caused employees to represent that NCA National Claims Administration was located at 5515 North 7th Street, Suite 5, Phoenix, Arizona.

(10) From in or about February, 1994 through at least on or about January 31, 1995, SHERLYN

DENICE KENEMORE caused mail delivered to NCA at 5515 North 7th Street, Suite 5, Phoenix Arizona to be forwarded to her home address at 2211 Twin Elms, Arlington, Texas 76012.

ADDITIONAL OVERT ACTS

The Grand Jury realleges all the allegations in paragraph 4 of Count 2 and the allegations in Counts 3 through 24 of the Indictment as additional overt acts.

In violation of Title 18 United States Code, Section 371 (18 U.S.C., §§ 664, 1341).

COUNT 2: CONSPIRACY TO LAUNDER MONEY

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 of this Indictment as if fully set forth herein.

2. Beginning at least on about February 1, 1993, and continuing through at least January 31, 1995, in the Dallas Division of the Northern District of Texas and elsewhere, defendants LAWERNCE DERWOOD KENEMORE, JR. aka Lawrence D. Kenemore, Jr., aka Larry Kenemore, SHERLYN DENICE KENEMORE, aka Sherry Kenemore, JOSEPH BRYAN KENEMORE,

MICHAEL J. MCKEOWN, CHRIS WAYNE KELLUM and CRYSTAL KELLUM knowingly, willfully and unlawfully combined, conspired, confederated and agreed with each other and with others, known and unknown to the Grand Jury, to commit certain offenses against the United States, to wit:

A. to knowingly and willfully conduct and attempt to conduct financial transactions, with the knowledge that the property used in these financial transactions represented the proceeds of some form of unlawful activity, and which in fact represented the proceeds of a specified unlawful activity, to wit: mail fraud with the intent to promote the carrying on of such specified unlawful activity and to conceal and disguise the nature, source, location, ownership, and control of the proceeds of the specified unlawful activity, in violation of Title 18, United States Code, §§ 1956(a) (1) (A) (i) and (B) (i) ; and

B. to knowingly and wil1fuby transport, transmit and transfer monetary instruments and funds from a place in the United States to or through a place outside the United States or to a place in the United States from and through a place outside the United States with the

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intent to promote the carrying on of specified unlawful activity, to wit: mail fraud in violation of Title 18, United States Code, § 1956(a) (2) (A).

MANNER AND MEANS OF THE CONSPIRACY TO LAUNDER MONEY

3. It was part of the conspiracy and scheme and artifice to launder money that:

A. In order to promote the carrying on of the underlying fraudulent scheme and in order to disguise and conceal their theft and diversion of funds from employers, the defendants and their co-conspirators transferred a portion of the diverted funds to various bank accounts controlled by them, including a bank account at the Arlington National Bank Arlington, Texas, in the name of "LSK Consulting, A Trust", and thereafter transferred funds from this account to the personal bank accounts of LAWERNCE DERWOOD KENEMORE, JR. and SHERLYN DENICE KENEMORE.

B. In order to promote the carrying on of the underlying fraudulent scheme and in order to

disguise and conceal their diversion and theft of assets of employee welfare benefit plans and funds connected therewith, the defendants and their coconspirators transferred funds out of the United States to an offshore bank account controlled by the defendants at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, and then returned portions of such funds back into the United States by wire transfer to bank accounts controlled by the defendants.

THE OVERT ACTS OF THE CONSPIRACY

4. In furtherance of the conspiracy, and in order to effect its objects, the defendants LAWERNCE DERWOOD KENEMORE, JR., SHERLYN DENICE KENEMORE, JOSEPH BRYAN KENEMORE, MICHAEL J. MCKEOWN, CHRIS WAYNE KELLUM, and CRYSTAL KELLUM committed the following overt acts, among others, in the Dallas Division of the Northern District of Texas and elsewhere:

(1) On or about July 18, 1993, defendants LAWERNCE DERWOOD KENEMORE, JR.

and SHERLYN DENICE KENEMORE opened account number 1330901 at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, in the name of ATO ASSOCIATION OF A TRUST AND GUARANTEE.

(2) On or about July 28. 1993, defendant LAWERNCE DERWOOD KENEMORE, JR. caused a wire transfer of approxamately $50,000 from brokerage account number 207-64344 at Merrill Lynch, Huntington Beach, California in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE to account number 1320901 at the Swiss American National Bank of Antigua, St. Johns, Antigua, West Indies, in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE.

(3) On or about August 24, 1993, defendants LAWERNCE DERWOOD KENEMORE, JR. and MICHAEL J. MCKEOWN causec a wire transfer of approximately $6000 from account number 1330901 at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, in the name of ATG

ASSOCIATION 'OF TRUST AND GUARANTEE to personal money market account number 1932532 at the Landmark Bank, La Habra, California, in the name of MICHAEL J. MCKEOWN.

(4) Beginning on or about November 2, 1993 and continuing through December '20, 1993, SHERLYN DENICE KENEMORE caused four transfers in increments of $2000 each, for a total of $8000, from account number 1330901 at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE to personal account number 0579517 at Stillwater National Bank & Trust Co., Tulsa, Oklahoma, in the name of JOSEPH BRYAN KENEMORE.

(5) On or about January 20 1994, LAWERNCE DERWOOD KENEMORE, JR. caused a wire transfer of approximate1y $3000 'from account number 1330901 at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, in the name of ATG ASSOCIATION OF TRUST AND

GUARANTEE to personal bank account number 187-7-47545 at First Interstate Bank, Newport Beach, California in the name of SHERLYN DENICE KENEMORE and LAWRENCE D. KENEMORE, JR.

(6) On or about February 28, 1994 LAWERNCE DERWOOD KENEMORE, JR., CHRIS WAYNE KELLUM and CRYSTAL KELLUM, caused a wire transfer of approximately $1000 from account number 1330901 at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE to personal bank account number 1883702894 at Bank One, Dallas, Texas, in the name of CHRIS WAYNE KELLUM and CRYSTAL KELLUM.

(7) Between March, 1994 and October, 1994 LAWERNCE DERWOOD KENEMORE, JR. caused to be diverted from account number 1002000634 at the Arlington National Bank, Arlington, Texas in the name of "ATG ASSOCIATION, A TRUST" approximately $30,000 and transferred such funds in periodic increments to account number 1002000972 at the Arlington National Bank, Arlington, Texas in the

name"L.S.K.Consulting,ATrust."

(8) BetweenMarch,1994and October,.1994,SHERLYNDENICEKENEMORE causedapproximately$30,000tobetransferredfrom accountnumber1002000972attheArlingtonNational Bank,Arlington,Texasinthename"L.S.K.Consulting, ATrust"throughtheuseofchecksmadepayableto LarryKenemore,Jr.,inperiodicincrements.

(9) BetweenMarch,1994and October,1994,LAWERNCEDERWOODKENEMORE, JR.depositedapproximately$30,000inperiodic incrementsintoapersonalaccountnumber1492072077 atBankOne,Texas,N.A.,Arlington,Texas:nthename ofLAWRENCED.KENEMORE,JR.andSHERLYN DENICEKENEMORE.

ADDITIONAL OVERT ACTS

The Grand Jury realleges all the allegations in paragraph 5 of Count 1, and Counts 3 through 25 as additional overt acts.

In violation of Title 18 United States Code, Section 1956(h) (18 USC §§ 1956(a) (1) (A) (i), (a) (1) (B) (i), 1956 (a) (2) (A))

COUNTS 3-5: MAIL FRAUD

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about the dates set out in each count below, in the Northern District of Texas and elsewhere, the defendants LAWERNCE DERWOOD KENEMORE, JR., aka Lawrence D. Kenemore, Jr., aka Larry Kenemore, SHERLYN DENICE KENEMORE, aka Sherry Kenemore and JOSEPH BRYAN KENEMORE aided and abetted by each other, for the purpose of executing and carrying out a scheme and artifice to defraud and to obtain money from employers by false and fraudulent pretenses, representations and promises; and attempting to do so, did knowingly and willfully cause mail matter, to wit, envelopes containing checks in the amounts as listed below in each count, to be delivered by mail according to the directions thereon to ATG Association of Trust & Guarantee, 1607 West Division Street Arlington, Texas 76012, from the

locations listed below in each count, each use of the mails constituting a separate count of this indictment:

COUNT	DATE	SENDER & ADDRESS	AMOUNT OF CHECK
3	12/9/93	Gasoline Alley 25 Hour Towing 6644 W. Buckeye Rd. Phoenix, Az. 85043	$1256.45
4	1/6/94	Agape Horticultural Services 2660 W. Baseline Mesa, AZ 85202	$2148.30
5	1/12/94	Jomar Tree Service 1250 W. Rancho Dr. Phoenix, AZ 85313	$906.90

Each count in violation 0f Title 18, United States Code, Sections 1341 and 2.

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COUNTS 6-8: MAIL FRAUD

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and of paragraph 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about the dates set out in each count below, in the Northern District of Texas, the defendants LAWERNCE DERWOOD KENEMORE, JR. , aka Lawrence D. Kenemore, Jr. , aka Larry Kenemore, SHERLYN DENICE KENENORE, aka Sherry Kenemore, CHRIS WAYNE KELLUM and CRYSTAL KELLUM aided and abetted by each other, for the purpose of executing and carrying out the aforesaid scheme and artifice to defraud and to obtain money from employers by false and fraudulent pretenses, representations and promises, and attempting to do so, did knowingly and willfully cause mail matter, to wit, envelopes containing checks in the amounts as listed below, to be delivered by mail according to the directions thereon to ATG-Associations, 1607 West Division Street, Arlington, Texas 76012, from the locations listed in each count below, each such use of

the mails constituting a separate count of this Indictment:

COUNT	DATE	SENDER & ADDRESS	AMOUNT OF CHECK
6	5/2/94	Crown Glass I Screen 228 5. Riverside Ave. Raiatto, CA 92376	$772.40
7	5/9/94	Atlas Sand & Gravel, Inc. P.O. Box 249 Eden, GA 31307	$691.40
8	6/6/94	Scf Enterprises 31732-40 Devonshire Chatsworth, CA 91411	$1080.00

Each count in violation of Title 18, United States Code, Sections 1341 and 2.

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COUNTS 9-11: MAIL FRAUD

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count I of this Indictment as if fully set forth herein.

2. On or about the dates set out in each count below, in the Northern District of Texas, the defendants LAWERNCE DERWOOD KENEMORE, JR., aka Lawrence D. Kenemore, Jr. aka Larry Kenemore, SHERLYN DENICE KENENORE, aka Sherry Kenemore, CHARLES B. POSTLE, aka Pat Postle, VERNON L. BYRD, aka Tack Byrd, aided and abetted by each other, for the purpose of executing and carrying out the aforesaid scheme and artifice to defraud and to obtain money from employers by false and fraudulent pretenses, representations and promises, and attempting to do so, did knowingly and willfully cause mail matter, to wit, envelopes containing checks in the amounts as listed below, to be delivered by mail according to the directions thereon to ATG-Associations, 1607 West Division Street, Arlington, Texas 76012, from the locations listed below in each count, each use of the mails constituting a separate

count of this indictment:

COUNT	DATE	SENDER & ADDRESS	AMOUNT OF CHECK
9	4/27/94	Lonnie's Used Car & Salvage Co. 4609 Pine Springs Fayetteville, N.C. 28306	$208.00
10	7/1/94	Companion Care Group Inc. 1386-H Westgate Center Dr. Winston-Salem, N. C 27103	$363.00
11	7/1,194	G.W. Enterprises 3099 Sunrise Blvd. Rancho Cordova, CA 95670	$455.36

Each count in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 12: ERISA THEFT

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. From in or about February, 1993 through in or about January, 1994, in the Northern District of Texas and elsewhere, LAWERNCE DERWOOD KENEMORE, JR., aka Lawrence 0. Kenemore, Jr., aka Larry Kenemore, SHERLYN DENICE KENEMORE, aka Sherry Kenemore and JOSEPH BRYAN KENEMORE, aided and abetted by each other and by others known and unknown to the Grand Jury, knowingly stole, embezzled and unlawfully and willfully abstracted and converted to their own use and the use of others, money, funds, premiums, credits and assets of employee welfare benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974, and of funds connected therewith, that is, at least $320,000 from account number 207-64344 at Merrill Lynch, Newport Beach, California in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE, and

from account number 1490051859 at Bank One, Texas, N.A., Dallas, Texas In the name or ATO ASSOCIATION OF TRUST AND GUARANTEE. -

In violation of Title 18, United States Code, Sections 664 and 2.

COUNT 13: ERISA THEFT

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. From in or about December, 1993 through in and about January, 1995, in the Northern District of Texas and elsewhere, LAWERNCE DERWOOD KENEMORE, JR., aka Lawrence 0. Kenemore, Jr., aka Larry Kenemore, SHERLYN DENICE KENEMORE, aka Sherry Kenemore, CHRIS WAYNE KELLUM and CRYSTAL KELLUM, CHARLES E. POSTLE, aka Pat Postle, and VERNON L. BYRD, aka, Tack Byrd, aided and abetted by each other and others known and unknown to the Grand Jury, knowingly stole, embezzled and unlawfully and

willfully abstracted and converted to their own use and the use of others, money, funds, premiums, credits and assets or employee welfare benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974, and of funds connected therewith, that is, at least $610,000 in money, funds, premiums and assets from account number 1490051859 at Bank One, Texas, N.A., Dallas, Texas, in the name of ATG ASSOCIATION OF TRUST AND GUARANTEE, and from an account number 1002000634 at the Arlington National Bank, Arlington, Texas in the name of ATG ASSOCIATION (A TRUST)

In violation of Title 18, United States Code, Sections 664 and 2.

COUNT 14: ERISA THEFT

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about May 4, 1994, in the Dallas Division of the Northern District of Texas and elsewhere, CHRIS WAYNE KELLUM and CRYSTAL KELLUM, aided and abetted by each other, did embezzle, steal and unlawfully and willfully abstract and convert to their own use and the use of others, the money, funds, premiums, credits and assets of employee welfare benefit plans subject to Title I of the Employee Retirement Income Security Act of 1974, and of funds connected therewith, that is, approximately $6000.00 in money, funds and assets of account number 1170003832 In the name of 'the "National Employees Trade Alliance Trust" located at Bank One, Texas, NA., Dallas, Texas.

In violation of Title 18, United States Code, Sections 664 and 2.

COUNT 15: FALSE STATEMENTS TO DEPARTMENT OF LABOR

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraph 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about January 24, 1994, in the Northern District of Texas, in a matter within the jurisdiction of the United States' Department of Labor, which was a department and agency of the United States, defendant, CHRIS WAYNE KELLUM knowingly and willfully made and caused to be made a false and fictitious material statement and representation in that defendant CHRIS WAYNE KELLUM, caused to be filed with the United States Department of Labor, a Labor Organization Information Report: Form LM-1 which reported the creation off the NATIONAL EMPLOYEES TRADE ALLIANCE and falsely represented that such document was signed by Tom Walsh as president when in truth and in tact, as CHRIS WAYNE KELLUM well knew, Tom Walsh never signed the form LM-1 and was never the

president of such alleged "labor organization."

In violation of Title 18 United States Code, Section 1001.

COUNTS 16-19: MONEY LAUNDERING

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about the dates listed in each count below in the Northern District of Texas and elsewhere defendants LAWERNCE DERWOOD KENEMORE, JR., aka Lawrence D. Kenemore, Jr. aka Larry Kenemore and SHERLYN DENICE KENEMORE aka Sherry Kenemore, aided and abetted by the defendants as listed in each count below, and aided and abetted by each other and by others known and unknown to the grand jury, having previously transferred funds from accounts located in financial institutions in the United States to an account at the Swiss American National Bank of Antigua, St. John's, Antigua, West Indies, did knowingly and willfully transport, transmit and transfer and attempt to transport, transmit and transfer funds in the amounts listed in each count below, from and through the Swiss American National Bank of Antigua, St. John's,

Antigua, West Indies, a place outside the United States, to a place in the United States, as listed in each count below, with the intent to promote the carrying on of a specified unlawful activity to wit: mail fraud, said transfers being initiated and directed by instructions sent by facsimile transmission from the offices of ATG Association of Trust and Guarantee in Arlington, Texas to the Swiss American National Bank of Antigua, St. John's Antigua, West Indies, each such transmission and transfer of funds constituting a separate count of this indictment:

Count	Date	Amount	Defendants & Receiving Account
16	12/15/93	$2,000	JOSEPH BRYAN KENEMORE Acot # 0579517 Stillwater National Bank Tulsa, Oklahoma
17	1/11/94	$3,000	SHERLYN DENICE KENEMORE LAWERNCE DERWOOD KENEWOOD Acct # 187-7-47545 First Interstate Bank Newport Beach, Calif.
18	1/20/94	$3,000	SHERLYN DENICE KENEMORE LAWERNCE DERWOOD KENEMORE Acct # 187—7—47545 First Interstate Bank

			Newport Beach, Calif.
19	2/8/94	$1,000	CHRIS WAYNE KELLUM CRYSTAL KELLUM Accr # 1883702894 Bank One, Texas N.A. Dallas, Texas

Each count in violation of Title 18, United States Code, Sections 1956 (a) (2) (A) and 2.

COUNT 20-24: MONEY LAUNDERING

1. The Grand Jury realleges and incorporates the Introduction and paragraphs 1-5 of Count 1 and paragraphs 1-4 of Count 2 of this Indictment as if fully set forth herein.

2. On or about the dates listed in each count below in the Northern District of Texas and elsewhere the defendants LAWERNCE DERWOOD KENEMORE and SHERLYN DENICE KENEMORE, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly and willfully conduct and attempt to conduct financial transactions, to wit: the transfer of funds from Arlington National Bank, Arlington, Texas, a financial institution the activities of which affected interstate commerce, by the use of checks drawn on Arlington National Bank account number 1002000072 in the name of "L. S K. Consulting, A Trust" and made payable to the entities and in the amounts as listed in each count below, with the knowledge that the property used in these financial transactions represented the proceeds of some form of unlawful activity, and which in fact

represented the proceeds of a specified unlawful activity, to wit: mail fraud with the intent to promote the carrying on of such specified unlawful activity and to conceal and disguise the nature, source, location, ownership, and control of the proceeds of the specified unlawful activity, each transaction constituting a separate count of the indictment:

Count	Date	Check	Amount	Payee
20	5/11/94	10004	$1500.00	Larry Kenemore, Jr.
21	6/15/94	10010	$1500.00	Larry Kenemore, Jr.
22	8/9/94	10021	$2200.00	Larry Kenemore, Jr.
23	8/19/94	10025	$1000.00	Larry Kenemore, Jr.
24	8/19/94	10026	$500.00	"Oceanus"

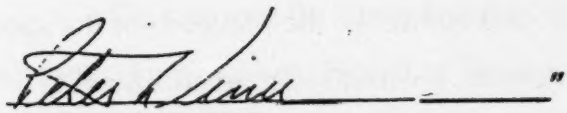
Each count in violation of Title 18, United States Code, Sections 1956 (a) (1) (A) (i) , (a) (1) (B) (i) and 2.

A TRUE BILL

"S/ _____ "

FOREPERSON

PAUL E. COGGINS
United States Attorney

"s/  "
PETER A. WINN
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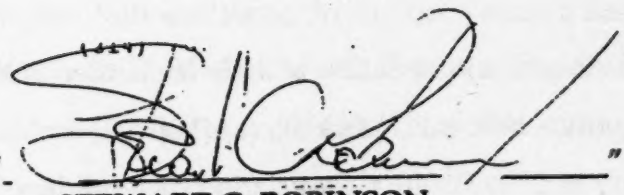
(214) 767-0951

"s/  "
STEWART C. ROBINSON
Assistant U. S. Attorney
Texas Bar No. 17112800
1100 Commerce, Third Floor
Dallas, TX 75242-1699
(214) 767-0951

APPENDIX - 10

Section 2, Clause 3. Criminal Trial by Jury

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when nor committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

APPENDIX - 11

Rule 18. Place of Prosecution and Trial

Except as otherwise permitted by statute or by these rules, the prosecution shall le had in a district in which the offense was committed. The court shall fix the place of trial within the district with due regard to the convenience of the defendant and the witnesses and the prompt administration of justice. (As amended Feb. 28, 1966, eff. July], 1966; Apr. 30, 1979, eff. Aug. 1, 1979)